

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN UNIVERSITY OF ANTIGUA COLLEGE
OF MEDICINE, a foreign corporation,

Plaintiff,

United States District Court Judge
Patrick J. Duggan, presiding
Michael Hluchaniuk, referral
Case No.: 2:10-cv-10978

V

STEVEN L. WOODWARD,

Defendant.

Eric A. Buikema (P58379) CARDELLI, LANFEAR & BUIKEMA, P.C. Attorneys for Plaintiff 322 W. Lincoln Royal Oak, MI 48067 (248) 544-1100 ebuikema@cardellilaw.com	STEVEN L. WOODWARD In Pro Per c/o 7211 Brittwood Lane Flint, MI 48507 Steve_L_woodward@yahoo.com
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PLAINTIFF'S MOTION TO COMPEL

NOW COMES Plaintiff, by and through counsel, CARDELLI, LANFEAR & BUIKEMA, and hereby states as follows for its Motion to Compel:

1. On October 19, 2010, pursuant to Fed. R. Civ. P. 30(b), Plaintiff noticed the deposition of Defendant Steven Woodward.

2. The notice, attached as Exhibit 1, required defendant to appear and give testimony as well as produce certain documents on November 4, 2010 at 9:00 a.m.

3. On or about October 27, 2010, Defendant filed a “Motion for Protective Order” (Docket No. 43) seeking to avoid the obligation to appear.

4. The “grounds” for Defendant’s motion were devoid of any reference to a scheduling conflict.

5. In any event, this Court denied Defendant’s request for protective order on November 1, 2010 (Docket No. 44).

6. On November 2, 2010 Defendant sent an e-mail to Plaintiff’s counsel indicating that “I will not be able to attend the November 4th deposition. The following week is better for me”. (Exhibit 2, emphasis supplied).

7. Despite a lack of confidence in the veracity of that e-mail, Plaintiff’s counsel’s office made an effort to accommodate Mr. Woodward and, by e-mail on the same day, advised that we would change the deposition to the following Monday (Exhibit 3).

8. The following morning Mr. Woodward responded: “I will be unavailable all next week” and, additionally, refused to produce the requested documents. (Exhibit 4).

9. Plaintiff’s counsel consequently demanded Mr. Woodward then appear as originally noticed.

10. Mr. Woodward refused and failed to appear despite denial of his motion for protective order and despite reasonable efforts to accommodate any legitimate scheduling issues. (Exhibit 5)

11. Plaintiff consequently requests an order compelling Mr. Woodward to appear for deposition and produce the requested documents within seven (7) days pursuant to Fed. R. Civ. P. 37(a)(1).

12. Plaintiff further requests costs pursuant to Fed. R. Civ. P. 37 (a)(5)(A), as Mr. Woodward's conduct has necessitated this motion.

13. Last, Plaintiff requests an appropriate sanction determined in exercise of the Court's discretion and pursuant to Fed. R. Civ. P. 37(d)(1)(A)(i) as Mr. Woodward is a party witness.

14. The undersigned counsel has, in the aforementioned e-mails and otherwise, conferred with Mr. Woodward in a good faith effort to obtain the subject discovery without the necessity of court action and Mr. Woodward has simply, and wrongfully, refused to comply.

WHEREFORE, Plaintiff respectfully requests that the Court grant its motion to compel and award both actual costs and sanctions in conjunction with the same.

Respectfully Submitted,

/s/ Eric A. Buikema (P58379)
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BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL

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Concise Statement of the Issues Presented:

Should Defendant be compelled to appear for deposition pursuant to Fed. R. Civ. P. 30 and 37?

Plaintiff relies upon the provisions of Fed. R. Civ. P. 30 and Fed. R. Civ. P. 37 in support of the relief requested in its motion.

Respectfully Submitted,

/s/ Eric A. Buikema (P58379)
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Plaintiff's Motion to Compel, Brief in Support of Motion and this Certificate of Service were served upon Steven L. Woodward, Defendant, via his email address Steve_L_woodward@yahoo.com and First Class U.S. mail to Steven Woodward, c/o 7211 Brittwood Lane, Flint, MI 48507 on November 5, 2010.

/s/ Eric A. Buikema
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